

HOUSE BILL 2999

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 11, relative to certain procedures performed before a pregnancy is terminated surgically.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, is amended by adding Sections 2 and 3 of this act as new Part 20.

SECTION 2.

(a) Except as provided in subsection (b), no abortion may be performed or induced unless the following conditions have been satisfied:

(1) The woman must be informed by the physician who is to perform the abortion or by a health provider working in conjunction with the physician of the procedure to be involved and by the physician who is to perform the abortion of the probable gestational age of the embryo or fetus at the time the abortion is to be performed.

(2) Except in the case of a medical emergency, an ultrasound must be performed on all women seeking an abortion. If the physician or a health care provider working in conjunction with the physician performs an ultrasound on a woman seeking an abortion, the physician or health care provider must describe the ultrasound procedure to her and make available ultrasound images at the time the ultrasound is being performed or, upon her request, at any time.

(b) The provisions of this act shall not apply if:

(1) An abortion is necessary to save the life or preserve the health of the mother;

(2) A medical procedure is required to remove a dead unborn fetus caused by a spontaneous abortion; or

(3) A medical procedure is required to address an ectopic pregnancy.

(c) All ultrasound images viewed by a woman pursuant to this subsection must be of a quality consistent with standard medical practice in the industry. A medical description of the ultrasound image of an embryo or fetus provided to a woman must include, but is not limited to, the dimensions of the embryo or fetus and the presence of external members and internal organs, if present and viewable.

(d) If the physician or a health care provider is to perform an ultrasound on a woman seeking an abortion, the printed materials described in Section 3 of this act must be made available to such woman no later than ten (10) minutes before an ultrasound is performed on her.

(e) The woman must be presented by the physician who is to perform the abortion or by a health care provider working in conjunction with the physician a written form containing the following statement: "You have the right to review printed materials prepared by the State of Tennessee that describe fetal development, list agencies which offer alternatives to abortion, list health care providers, facilities, and clinics that provide ultrasounds free of charge, and describe medical assistance benefits which may be available for prenatal care, childbirth, and neonatal care. You have a right to view ultrasound images produced during your ultrasound with a medical explanation of the images. You

may view the images during the ultrasound procedure and at any time after the ultrasound has been completed." This form must be signed and dated by both the physician who is to perform the procedure and the pregnant woman upon whom the procedure is to be performed.

(f) The woman must certify in writing, before the abortion, that she has been informed of her right to view ultrasound images of the embryo or fetus and that she has been informed of her opportunity to review and receive the information referred to in subsection (e).

(g) Before performing the abortion, the physician who is to perform or induce the abortion must determine that the written certification prescribed by subsection (f) or by subsection (i) has been signed. This subsection shall not apply where an abortion is performed pursuant to a court order.

(h) Nothing in this act shall limit the information provided by the physician who is to perform the abortion or a health care provider to the person upon whom the abortion procedure is to be performed.

(i) In the event the person upon whom the abortion is to be performed or induced is a minor, but is not an emancipated minor, as defined in Section 39-11-106, the information described in subsection (e) must be furnished and offered respectively to a parent of the minor, a legal guardian of the minor, a grandparent of the minor, or any person who has been standing in loco parentis to the minor for a period of not less than sixty (60) days. The parent, legal guardian, grandparent, or person who has been standing in loco parentis, as appropriate, must make the certification required by subsection (f). In the event the person upon whom the abortion is to be performed is under adjudication of mental incompetency by a court of competent jurisdiction, the information must be

furnished and offered respectively to her spouse or a legal guardian if she is married; if she is not married, from one parent or a legal guardian. The spouse, legal guardian, or parent, as appropriate, must make the certification required by subsection (f). This subsection does not apply in the case of an abortion performed pursuant to a court order. The provisions contained in this section related to viewing ultrasound images do not apply to an unemancipated minor or person under adjudication of mental incompetency.

(j) A clinic or other facility must maintain, for three (3) years after the abortion is performed or induced, the woman's written verification that the information was provided, that she was informed of her right to view ultrasound images of the embryo or fetus, and the printed materials were offered to her. In the case of an unemancipated minor or mentally incompetent person, the clinic or other facility is required to maintain a copy of the court order or the medical records and written consent for three (3) years after the procedure is performed.

SECTION 3.

(a) The department of health shall cause to be published the following printed materials:

(1) Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies, which include a comprehensive list of the agencies available, a description of the services they offer, and a description of the manner, including telephone numbers, in which they may be contacted;

(2) Materials designed to inform the woman of the probable anatomical and physiological characteristics of the embryo or fetus at two-week gestational

increments from the time when a woman can be known to be pregnant to full term. Any photograph, drawing or other depiction must state in bold letters, which are easily legible, stating the magnification of the photograph, drawing or depiction if it is not the actual size of the embryo or fetus at the age indicated. The materials must be objective, nonjudgmental, and designed to convey only accurate scientific information about the embryo or fetus at the various gestational ages;

(3) Materials designed to inform the woman of the principal types of abortion procedures and the major risks associated with each procedure, as well as the major risks associated with carrying a fetus to full-term;

(4) Materials designed to inform the woman that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care by providing the names, addresses, and phone numbers of appropriate agencies that provide or have information available on these benefits;

(5) Materials designed to inform the woman of the mechanisms available for obtaining child support payments; and

(6) A list of health care providers, facilities, and clinics that provide abortion counseling.

(b) The materials must be easily comprehensible and must be printed in a typeface large enough to be clearly legible.

(c) The materials required under this section must be available from the department of health upon request and in appropriate number to any person, facility, or hospital.

SECTION 4. Section 3 of this act shall take effect upon becoming a law, the public welfare requiring it. The other sections of this act shall take effect January 1, 2009, the public welfare requiring it.